



HF 2447 – Fees in Probate Proceedings (LSB6042HV)

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Fiscal Note Version – New

Description

House File 2447 relates to court costs a clerk of probate court charges and collects in connection with probate matters. This bill will reduce the calculation of “gross estate value,” the current basis for calculation of probate fees under Iowa Code section [633.31](#), by subtracting the following from the gross estate value:

- 1) Joint tenancy property,
- 2) Transfers during a person’s lifetime, and
- 3) Assets payable to beneficiaries (e.g. life insurance, annuities, retirement accounts, transfer on death, and payable on death accounts)

The bill also prohibits charging court costs pursuant to Iowa Code section [633.31\(2\)\(k\)](#) on any property transferred to an estate from a conservatorship that has been administered in Iowa and for which court costs have been assessed and paid.

This bill applies to estates of decedents dying on or after January 1, 2017.

Background

Under current law, Iowa Code section [633.31\(2\)\(k\)](#) provides a sliding scale fee for services performed in connection with the settlement of an estate. The probate fees generated by clerks of court are deposited in the State General Fund pursuant to Iowa Code section [602.8108](#).

The total of gross estate value fees paid in FY 2015 was \$12.8 million. The total for FY 2016 is estimated to remain at \$12.8 million. The FY 2016 estimate is based on the monthly average of the actual probate fees paid for the period July 1, 2015, through February 29, 2016.

Assumptions

- Given the types of assets that will be subtracted from gross estate value, the Judicial Branch assumes that [HF 2447](#) will reduce the applicable estate values by 50.0%. The Judicial Branch considers this a conservative estimate and the minimum reduction that is likely to occur. If the reduction in estate values is greater than 50.0%, the revenue losses will be greater than estimated.
- There will be a 5.0% growth in probate fees per year. For the calendar year period of 2011 to 2014 there was an average increase of 13.9% per year. Due to these figures, the Judicial Branch indicates a 5.0% increase is a conservative growth estimate.
- In FY 2015, 51.0% of the cases filed in 2015 were paid in one year or less. The calculation assumes that 51.0% of cases filed in FY 2017 will also be paid within that year, and half of those cases will be subject to the new fee provisions.

Fiscal Impact

House File 2447 will reduce revenues to the State General Fund. The table on the following page indicates the estimated probate fees paid in FY 2017 through FY 2020 under both current law and the proposed law:

Estimated Probate Fees Paid in FY 2017 – FY 2020

| | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|---|---------------|---------------|---------------|---------------|
| State revenue under current law | \$ 13,413,777 | \$ 14,084,466 | \$ 14,788,689 | \$ 15,528,124 |
| State revenue under proposed bill | 11,703,521 | 8,661,947 | 7,874,977 | 7,950,399 |
| Reduction in state revenue if bill passes | 1,710,257 | 5,422,519 | 6,913,712 | 7,577,724 |
| Percentage reduction in state revenue | -12.8% | -38.5% | -46.8% | -48.8% |

The new fee provisions of [HF 2447](#) will apply to estates of decedents dying on or after January 1, 2017. As a result, there will only be a negative fiscal impact on the cases filed and paid for in the second half of FY 2017. Probate cases filed prior to the effective date will still pay probate fees on the full gross estate value, without the reductions in estate value provided in this bill.

In FY 2015, 51.0% of the probate cases were filed and paid for in the same year. Assuming that this percentage will remain the same in FY 2017, it is estimated to take several years for the probate cases filed after January 1, 2017, to be closed and fees paid, and the full fiscal impact to be known. The table below indicates the age of the probate court costs paid during FY 2015:

Age of Probate Cases When Fees Were Paid During FY 2015

| Age Group # | Age Group (Age from Filing Date to Date Fee Paid) | Cases with Fees Paid | Total Amt of Fees Paid | % of Total Paid | Average fee paid |
|-------------|--|----------------------|------------------------|-----------------|------------------|
| 1 | Paid in < or = to 1 yr | 5,340 | \$ 6,524,675 | 50.8% | \$ 1,222 |
| 2 | Paid in > 1 yr to 2 yrs | 2,823 | 4,516,007 | 35.2% | 1,600 |
| 3 | Paid in > 2 yrs to 3 yrs | 796 | 1,112,442 | 8.7% | 1,398 |
| 4 | Paid in > 3 yrs to 4 yrs | 349 | 382,398 | 3.0% | 1,096 |
| 5 | Paid in > 4 yrs to 5 yrs | 195 | 192,463 | 1.5% | 987 |
| 6 | Paid in > 5 yrs | 324 | 110,443 | 0.9% | 341 |
| | Totals | 9,827 | \$ 12,838,429 | 100.0% | \$ 1,306 |

Guardianship/Conservatorship Cases

When a ward in a guardianship/conservatorship case dies, the case is closed and a separate estate case is opened. Under current practice, a district court clerk applies the probate fee both when the conservatorship case is closed, and again when the separate estate case is opened. [HF 2447](#) will prohibit charging court costs on any property transferred to an estate from a conservatorship that has been administered in Iowa and for which court costs have already been assessed and paid.

In FY 2015, there were 1,106 Guardianship/Conservatorship cases charged with additional probate fees. Those cases accounted for \$273,000 of the \$12.8 million in total probate fees paid in FY 2015, about 2.0%. Assuming those amounts remain the same in FY 2017, the Judicial Branch indicates that changing the fee policy will not significantly decrease the total amount of probate fees paid.

Source

Iowa Judicial Branch

/s/ Holly M. Lyons

April 4, 2016

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the LSA upon request.